1952.

File No. O. Industrial Employment (S.O.)/52

Legal Department

A **BRANCH**

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Subject:— Opinions under the Industrial Employment (Standing Orders) Act 1946

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Gen. 194 a.

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C O N T E N T S.

Legal Department File O. Industrial Employment. /52

(S.O.)

Sr. No.	R.I. No. / O. No.	Subject	Pages.
O.	Industrial Employment. (S.O.)/1952.	Opinions under The Industrial Employment (Standing Orders) Act, 1946.	
1	16817/A 26-9-1952	Sec. 13(2) The fact that the Manager who committed the offence has now ex ceases to be a manager does not wipe out the offences and the offences and can still be prosecuted.	1
2	G.R.D.D. 793/48 24-10-52.	Prosecution. Shri B.D. Bhatt., and M/s. Bharat Vanaspati Products Ltd., of Pachora. (E.Kh.).	3

Office of the R.L.A.

Section 13(2) of the Industrial Employment (Standing Orders) Act, 1946, provides that an employer who does any act in contravention of the x standing orders finally certified under this Act, for his industrial establishment shall be punishable with fine which may extend to one hundred rupees, and in the case of a continuing offence with a further fine which may extend to twenty-five repees for everyday after the first during which the offence continues. Under this section, therefore, the person who can be prosecuted is the employer who commits the breach. The word 'employer' is defined in section 2(d) of the Act the relevant portion of which reads as under-

> "(d) "employer" means the owner of an industrial establishment to which this Act for the time being applies, and includes -
>
> (1) in a factory, any person named under clause (e) of sub-section (1) of section 9 of the Factories Act, 1934, as manager of the factory;".

Therefore, the persons who can be prosecuted are the owner of the factory and the manager of the factory. The fact that the manager who committed the offence has now ceased to be a Manager does not wipe out the offence so far as he is concerned and he can still be prosecuted for the offence committed. It would, however, be also expedient to prosecute the owner so that the fine, if levied, can be realised. It appears that the owner is the company the Bharat Vanaspati Products Ltd. There is no legal objection to the company itself being prosecuted as owner. The prosecution will have to be against the company as such

as such and not against any of its directors etc. The new Manager cannot be prosecuted because it was not he who has committed any act in contravention of the Standing orders.

Sd.(P.M.L.)

Remembrancer of Legal Affairs.

U.R. to D.D. No. 15817/A, dated the 25th xpx September, 1952.

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